

Delta Stewardship Council
I. Administrative Procedures Governing Appeals
Proposed Revisions to FINAL DRAFT 8/12/2010

Addition of New Paragraph 22.5 and Revisions to Paragraph 23.

22.5. a) The council shall conduct any hearing concerning the BDCP in a manner deemed most suitable to ensure fundamental fairness to all parties concerned, and with a view toward securing all relevant information and material necessary to render a decision without unreasonable delay.

b) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be considered if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in a court proceeding. Unduly repetitious or irrelevant evidence shall be excluded upon order of the council or its chairperson.

c) Evidence before the council includes, but is not limited to, the record before the department. The record will not include a transcript of any proceedings before the department unless provided by a party to the proceedings or requested by the council.

d) Any interested person may testify before the council regarding an appeal. Speakers' presentation shall be to the point and shall be as brief as possible. Visual and other materials may be used as appropriate. The council may establish reasonable time limits for presentation(s); such time limits shall be made known to all affected persons prior to any hearing. Where speakers use or submit to the council visual or other materials, such materials shall become part of the hearing record and shall be identified and maintained as such. Speakers may substitute reproductions of models or other large materials but shall agree to make the originals available upon request of the executive officer.

e) Council members may ask questions of the appellant, the department's representative(s), any third party appearing at the hearing, or staff. Questioning of speakers at the hearing by other persons shall not be permitted except by permission of the Chairperson.

f) Interested persons may submit written comments concerning an appeal. Any such comments will be considered by the council if they are received by the council at or before the hearing on the appeal.

g) The council may continue the hearing where it determines that a continuance would be appropriate.

23. The council's decision shall be de novo, based on its independent judgment in reviewing the applicable law and facts. It shall include specific written findings as to whether the BDCP meets the requirements of Water Code section 85320.